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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/964,797	09/28/2001	Toshiki Kindo	P21481	2866

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EXAMINER

GART, MATTHEW S

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 03/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/964,797	Applicant(s) KINDO ET AL.	
	Examiner Matthew S. Gart	Art Unit 3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 16 and 17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 18-31 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>See Office Action</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Election/Restrictions

Claims 16-17 (Group II) are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction requirement in the reply filed on 12/30/2005. Applicant argues that the search required for claims 16-17 (Group II) would also be required for each of the other individual groups because all of the groups are classified in the same class and subclass. The Examiner notes, even though the groups are classified together, each invention was shown to encompass divergent subject matter and the search required for Group II is not required for each of the other individual groups causing a serious burden to the examiner.

The Examiner notes, pursuant to the Applicant's reply filed on 12/30/2005, the restriction requirement with respect to claims 27 and 29-31 is withdrawn, and the claims are hereby rejoined and fully examined for patentability under 37 CFR 1.104.

Prosecution History Summary

- Claims 1-31 are pending in the instant application.
- Claims 16-17 (Group II) are withdrawn from further consideration in the instant application.
- Claims 1-15 and 18-31 are currently rejected as set forth below.

Information Disclosure Statement

The information disclosure statement submitted on 12/27/2001 is being considered by the examiner.

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

The drawings were received on 11/23/2005. The Examiner accepts these drawings.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-15 and 18-31 are rejected under 35 USC 112 second paragraph.

Referring to claims 1-15 and 18-31. Claims 1-15 and 18-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The scope of claims 1-15 and 18-36 are unclear due to the presence of idiomatic errors. Claims 1-15 and 18-36 appear to be a literal translation into English from a foreign

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document. The claims were given their broadest reasonable interpretation during examination as best interpreted.

Referring to claims 1-15, 18-19 and 26-31. Claims 1-15 and 18-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The meaning of the term "section," as used in the following examples is unclear:

- A search signal generating section...
- A search signal distribution section...
- A reply signal processing section...

For the purpose of examination, the examiner construed a "section" to be any type of computer related device.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-15 and 18-31 are rejected under 35 U.S.C. 102(e) as being anticipated by Abelow (U.S. Patent No. 5,999,908).

Referring to claim 1. Abelow discloses a market research system comprising:

a search signal generating section that generates a search signal using a keyword (Abelow: "Defined Customer Desires (CDC) **758**") contained in merchandise information on merchandise subject to market research requested from a seller (Abelow: column 12, lines 20-54);

a search signal distribution section that distributes the search signal to a reply apparatus provided with a personal profile with which various keywords and evaluation values corresponding to the keywords are registered, the evaluation values learned in advance based on a preference of a consumer (Abelow: column 33, lines 17-43); and

a reply signal processing section that receives from said reply apparatus a reply signal obtained from an evaluation value in the personal profile corresponding to the keyword contained in the search signal (Abelow: column 33, lines 18-54).

Referring to claim 2. Abelow further discloses a system wherein with the personal profile are registered the evaluation values corresponding to the keywords contained in the merchandise information distributed from a merchandise information server that distributes the merchandise information according to a request from the consumer (Abelow: column 33, lines 17-54);

said merchandise information server distributes the merchandise information from a merchandise information storage section with which the merchandise information presented by the seller is registered; and said search signal generating section fetches the merchandise information on the merchandise subject to the market research from said merchandise information storage section to generate the search signal (Abelow: column 33, lines 17-54).

Referring to claim 3. Abelow further discloses a system wherein when the market research is requested from the seller, an ability to pay for the research of the seller is confirmed (Abelow: Figure 19).

Referring to claim 4. Abelow further discloses a system wherein the search signal and the reply signal are encrypted before being transmitted to respective destinations (Abelow: column 35, line 64 to column 36, line 17).

Referring to claim 5. Abelow further discloses a system comprising: a merchandise information reliability survey section that operates when a merchandise order containing a consumer ID, a merchandise ID and a seller ID is received, while making said search signal generating section generate the search signal using the keyword contained in the merchandise information corresponding to the merchandise

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ID, further making said search signal distribution section distribute the search signal to said reply apparatus provided with the personal profile of the consumer designated by the consumer ID, and transferring the reply signal returned in response to the search signal to the seller designated by the seller ID (Abelow: column 82, lines 27-67).

Referring to claim 6. Abelow further discloses a system wherein said reply apparatus provided with the personal profile is a consumer terminal for the consumer to place an order for the merchandise (Abelow: Figure 2).

Referring to claim 7. Abelow further discloses a system wherein said system queries the consumer whether the personal profile is available, and when the consumer allows the personal profile to be utilized, fetches the personal profile from said consumer terminal to provide to a seller that desires the personal profile (Abelow: column 33, lines 17-43 and Figure 2).

Referring to claim 8. Abelow further discloses a system wherein said reply apparatus provided with the personal profile is provided in an information providing server having a function as a merchandise information server that distributes the merchandise information according to a request from the consumer (Abelow: column 94, lines 16-40).

Referring to claims 9-15. Claims 9-15 are rejected under the same rationale as set forth above in claims 1-8.

Referring to claims 18-19. Claims 18-19 are rejected under the same rationale as set forth above in claims 1-8.

Referring to claims 20-22. Claims 20-22 are rejected under the same rationale as set forth above in claims 1-8.

Referring to claims 23-25. Claims 18-19 are rejected under the same rationale as set forth above in claims 1-8.

Referring to claim 26. Abelow further discloses an e-commerce system comprising said market research system according to claim 1 (Abelow: Figure 20 and Figure 21).

Referring to claims 27-31. Claims 27-31 are rejected under the same rationale as set forth above in claims 1-8 and 26.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew S. Gart whose telephone number is 571-273-3955. The examiner can normally be reached on M-F, 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 571-272-7159. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



MSG
Patent Examiner
February 21, 2006